

REMARKS

Claims 25, 27-32, 34, and 39-44 are active. Claim 25 has been revised as an independent claim. Claim 34 now includes limitations previously found in claim 37. No new matter has been added. Favorable consideration of this amendment and allowance of this application is now respectfully requested.

The Applicants thank Examiner Meah and Prouty for the courteous and helpful interview of May 15, 2007. Amendments that would address the rejections were discussed. It was suggested that the claims indicate that the recited microorganisms do not express active forms of the genes ordinarily expressed by *dadA* and *dsdA* and that with regard to specific deposited strains that the Applicants perfect their deposits.

Restriction/Election

The Applicants previously elected with traverse, Group I, Claims 1-5, directed to products (microorganisms). The Applicants thank Examiner Meah for previously rejoining the method claims of Group II.

Objection

The claims 38 and 45 were objected to as being a substantial duplicates of other claims. This objection is moot in view of the cancellation of claim 38.

Rejection—35 U.S.C. §112, second paragraph

Claims 31-32 and 40-44 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. This rejection is moot in view of the adoption of the Examiner's helpful suggestion.

Rejection—35 U.S.C. §102(b)

Claims 22-24, 27-30 and 32 were rejected under 35 U.S.C. 102(b) as being anticipated by Fotheringham, et al., U.S. Patent No. 5,728,555. This rejection is moot in view of the amendments above. The language of independent claim 22 has been merged into claim 25 which was not rejected.

Rejection—35 U.S.C. §103(a)

Claims 25, 31, 34-36, and 39-44 were rejected under 35 U.S.C. §103(a) as being unpatentable over Fotheringham, et al., U.S. Patent No. 5,728,555, and Altenbuchner, et al., U.S. Patent No. 6,352,848, in view of Marceau, et al., JBC 263(32):16916.

These documents do not render the amended claims obvious because they do not disclose all the elements of the invention, namely a “strain has been transformed with a **D-carbamoylase gene** and a **D-hydantoinase gene**” as required by independent claims 25 and 34. The cited prior art is silent with respect to a strain that has been transformed with a **D-hydantoinase gene**.

Fotheringham does not disclose a **D-hydantoinase gene** and a word search of this patent indicates that “hydantoinase” does not appear in this patent.

Altenbuchner disclose a recombinantly-produced **L-carbamoylase** which is isolated and used to convert, for example, N-carbamoyl, N-formyl-D,L amino acids into **L-amino acids**. Even were the host cell claimed in claim 5 of Altenbuchner be deemed to over-express this L-carbamoylase, Altenbuchner does not disclose a microorganism which over-expresses a **D-carbamoylase gene** which produces a **D-amino acid** and is also completely silent with regard to expression of a **D-hydantoinase gene** in a transformed microorganism.

Marceau does not disclose these elements—required by amended claims 25 and 34—either. Accordingly, this rejection may now be withdrawn.

Rejection—35 U.S.C. §103(a)

Claim 37 was rejected under 35 U.S.C. §103(a) as being unpatentable over Altenbuchner, et al., U.S. Patent No. 6,352,848, in view of Marceau, et al., JBC 263(32): 16916 and Fotheringham, et al., U.S. Patent No. 5,728,555. This rejection is moot in view of the cancellation of claim 37.

Conclusion

In view of the above amendments and remarks, the Applicants respectfully submit that this application is now in condition for allowance. Early notification to that effect is earnestly solicited.

Respectfully submitted,

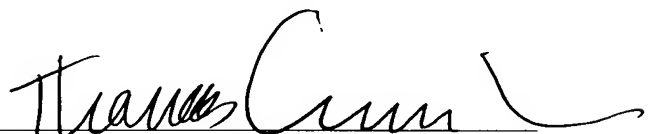
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